

PERMIT APPLICATION NUMBER: NRS05.186

APPLICANT: Canadian National Railway
2151 North Mill Street
Jackson, MS 39202
601-597-4315

LOCATION: Hatchie River and adjacent wetlands near Rialto in Lauderdale County; 35.6293°N, 89.6048°W

PROJECT DESCRIPTION: The project consists of replacement of approximately 990 linear feet of timber railroad trestle (single track) with rock fill material in three segments. The height of fill material varies between 10 and 15 feet with 1.7:1 side slopes, a maximum base width of 65 feet and within an area totaling 1.93 acres. The fill material would consist of crushed stone aggregate. The project site is located under the railroad and within the right of way. The right of way is cleared of vegetation and is maintained with herbicide.

The project also includes existing fill of 793 feet of trestle that was permitted by the division in 1996 under exigency circumstances for which compensation was never achieved. Approximately 1.38 acres of wetlands were impacted as a result. Thus, direct wetland impact totals 3.31 acres.

The purpose of the proposal is to repair deficient trestle structures for safe rail operations.

The applicant has been approved to purchase credits in the Sunk Lake mitigation site in Lauderdale County at a 4:1 ratio to compensate for the emergency fill that occurred in 1996 at the subject site. That approval included the purchase of 5.53 credits to mitigate the 1.38 acres of emergency fill.

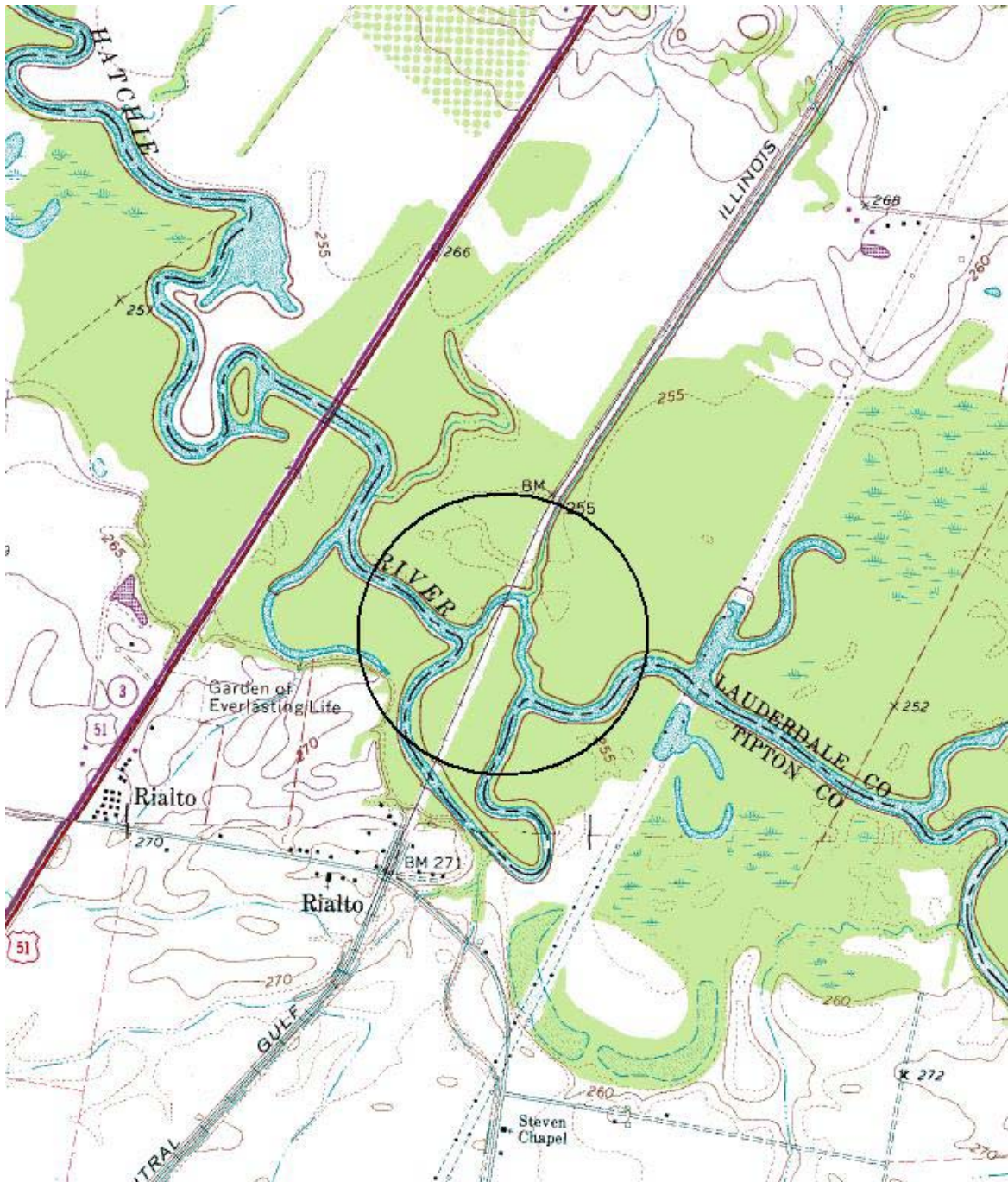
The applicant has proposed a 4:1 ratio at the Sunk Lake mitigation site in Lauderdale County to compensate for the remaining proposed fill.

WATERSHED DESCRIPTION: The division has assessed the Hatchie River as high quality (tier 2) waters from an upstream point at the Mississippi state line downstream to its confluence with the Mississippi River. The basis for inclusion of the Hatchie River as high quality includes the following: it is designated as a Class I Natural River Area under *The Tennessee Scenic Rivers Act*; it flows through the Hatchie National Wildlife Refuge and Lower Hatchie National Wildlife Refuge; is the last major un-channelized river in West Tennessee and is habitat for the state threatened Blue Sucker (*Cycleptus elongatus*).

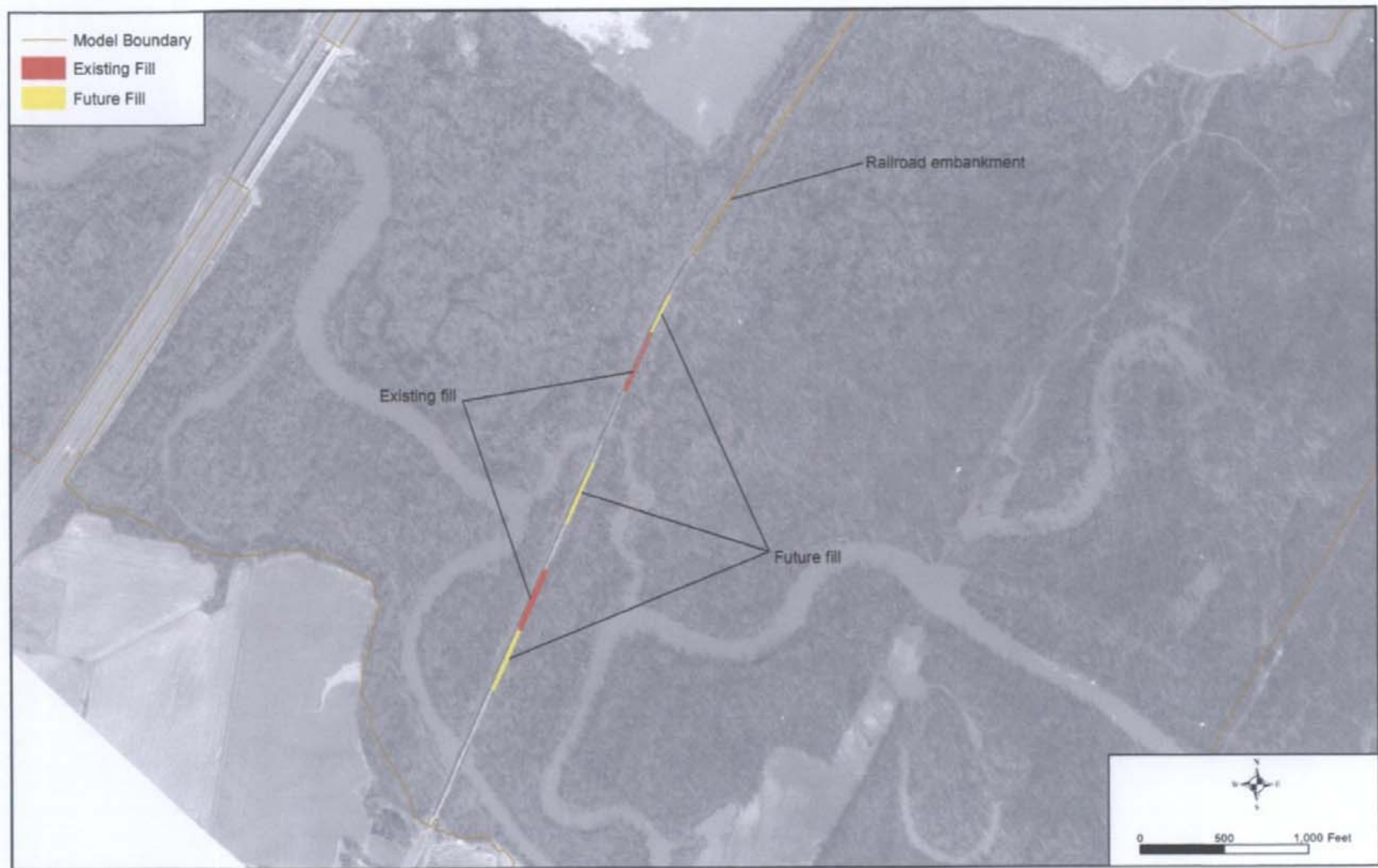
The department has determined that the floodplain wetlands immediately adjacent to the Hatchie River at the railway crossing to be tier 2. The drainage area in the segment in the watershed of the Hatchie River at the railway crossing is 2,308 square miles. The floodplain is relatively narrow and contained; it is characterized by frequently inundated wetlands resulting from out of bank flooding of relatively long duration.

PERMIT COORDINATOR: Robert Baker

USGS TOPOGRAPHIC QUADRANGLE: USGS Ripley South Quad



Canadian National Railway



Locations of fill under proposed future conditions



Canadian National Railway, existing fill in background; example of trestle area proposed for fill



**Notice of Determination of Economic/Social Necessity
Canadian National Railway Hatchie River Crossing
Rialto, Tennessee**

June 7, 2006

This notice presents the determination of the Tennessee Department of Environment and Conservation, Division of Water Pollution Control, on the justification of degradation of high quality tier 2 waters on the basis of economic or social necessity.

Under the *Tennessee Antidegradation Statement*, where reasonable alternatives to degradation to a high quality tier 2 stream are not feasible, applicants may ask the department to determine that the proposed degradation is justified on the basis of economic or social necessity. The applicant has the burden of establishing to the department that a change is justifiable as a result of necessary economic or social development and will not interfere with or become injurious to any classified uses existing in such waters. The department's determination that degradation is justified or unjustified shall be subject to review by the Water Quality Control Board.

The proposed fill described in the accompanying public notice would take place in high quality tier 2 waters and the proposed activity would result in degradation or more than *de minimis* impact.

In accordance with Rule 1200-4-3-.06(3)(a) the applicant has provided information evaluating the social and economic benefits, practicability and the relating environmental impacts of the proposed activity and various project alternatives.

After reviewing this information the division has determined that the change is justified as a result of necessary economic or social development and will not interfere with or become injurious to any classified uses existing in the affected waters of the state.

This determination is based upon the division's consideration that the cost of certain alternatives is significantly greater than that associated with the proposed activity and that the alternatives do not provide sufficiently greater environmental benefit to justify the additional cost.

Within 30 days after the date of the notification, any affected intergovernmental coordination agency or affected third person may petition the Board for a declaratory order under Tennessee Code Annotated § 4-5-223, and the Board shall convene a contested case. If a declaratory order petition is timely filed, the Department shall not proceed further in processing the permit application until the petition has been resolved before the Board.